only right that we do not lag behind. It is with these considerations that I introduce the Bill.

Mr. Kottur Kunjukrishna Pillai: I second the motion.

The motion was put to vote and carried.

Secretary: The title of the Bill shall be "The Travancore Hindu Inheritance (Removal of Disabilities) Bill.'.

Mr. G. Narayana Aiyar: I beg to move that the Bill be referred to a Select Committee consisting of

Messrs. P. I. Simon
Kottur Kunjukrishna Pillai
M. S. Anirudhan
V. S. Arumukham Pillai
Nedumangad R. Kesavan Nair
Kallur Narayana Pillai
M. K. Ananthasiva Aiyar
T. Mahomed Ismail
Kayalam Parameswaran Pillai
P. R. Godavarma Raja
C. N. Thuppan Namputhiripad
N. V. Chacko and
myself.

Mr. Kottur Kunjukrishna Pillai: I second it.

The motion was put to vote and carried.

THE TRAVANCORE KRISHNANVAKA MARUMAKKATHAYAM BILL.

Mr. K. R. Elankath: I beg to move that leave be granted to me for introducing the Travancore Krishnanvaka Marumakkathayam Bill.

Mr. Kottur Kunjukrishna Pillai: I second it.

The motion was put to vote and carried. Leave was granted.

RESOLUTIONS ON MATTERS OF GENERAL PUBLIC INTEREST.

Recruitment of Prosecuting Inspectors.

Mr. T. Mahomed Ismail: Sir, I beg to move the following resolution:

"This Council recommends to the Government that, as far as possible the posts of Prosecuting Inspectors should be filled by direct recruitment from amongst the graduates-in-law of the State."

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. T. Mahomed Ismail.]

The resolution simply requests that Prosecuting Inspectors may be recruited from the members of the Bar also. It does not suggest that Prosecuting Inspectors shall be recruited from the Bar alone. I shall draw the attention of the House to certain important aspects of the matter.

At present, there are two major departments, namely, the Excise and the Police, which conduct prosecutions. I am not unaware of the fact that certain other departments also, the Forest Department for instance, initiate prosecutions.

But the most important of them are the Police and the Excise Departments. The present policy is to appoint prosecuting inspectors in these Departments from members of the executive staff of the departments concerned. They are exclusively appointed from the executive staff. Without meaning any disrespect to any particular individual I may say that very often the Inspectors in the department who are not found quite up to the mark are sent out as Prosecuting Inspectors. This sort of affairs is rather undesirable and not conducive to the better administration of the State. In fact, my opinion is that even the best Inspector in the executive line cannot be expected to be an ideal Prosecuting Inspector because the functions of an ordinary Inspector and a Prosecuting Inspector are quite different. The ordinary Inspector always deals with the detection of crimes, finding out offenders, making charges and other such things, while the Prosecuting Inspector's duty is to represent the Government in prosecutions as an impartial observer of the matter. An ordinary Inspector who is dealing in ordinary affairs cannot be expected to be dispassionate in conducting and prosecuting cases, with a broader outlook. His duty is to present to the court the facts for and against the accused. It cannot be said that an officer taken from the ordinary inspectorate can do this function unbiased. Moreover, Sir, it is necessary that proficiency in law is also an essential ingredient for this job. Of course it can be said that these Inspectors know a little of the Penal Code, the Criminal Procedure Code and a little of the Evidence Act. But this is not sufficient for prosecuting a case.

Mr. Kottur Kunjukrishna Pillai: May I know from the member how many Prosecuting Inspectors there are in the department who are not graduates-in-law ?

Mr. T. Mahomed Ismail: I do not know, Sir. My point is that those recruited as Inspectors, even if they are graduates in law, who have not practical experience of law as lawyers in courts of law cannot be expected to be ideal Prosecuting Inspectors.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. K. R. Elankath: May I know whether it is not the suggestion of the member as seen in the resolution that even graduates in law who are clerks and who have nothing to do with the legal profession may be appointed as Prosecuting Inspectors ?

Mr. T. Mahomed Ismail: That is the very reason why I have stated in the resolution that they may be directly recruited from the Bar.

Mr. Nedumangad R. Kesavan Nair: Is it the member's opinion that only direct recruitment from the Bar should be made in the case of Prosecuting Inspectors and that no fresh recruitment from outside the bar should be made ?

Mr. T. Mahomed Ismail: I have stated at the outset that it is not my object that the recruitment should be confined to the Bar alone. My idea is that the Government should accept the principle that there is no objection for the members of the Bar to be recruited, because as I have said before, the Prosecuting Inspectors are now taken exclusively from the department.

Mr. K. R. Elankath: May I know whether members of the Bar are now excluded from being recruited for the post of Prosecuting Inspectors ?

Mr. T. Mahomed Ismail: That is what I understand.

That our Prosecuting Inspectors are not quite the sort of people necessary for conducting cases will be clearly seen from the remarks and strictures very often made by the Appellate Courts concerning the prosecutions in trial courts.

There is a precedent to quote in this connection. Till very recently there was a precedent that no Magistrate will be recruited from the Bar. As a result of continuous representations for a long time, both in the Legislature and outside, this pernicious practice has been broken by Government and recently they have accepted the principle that members of the Bar should also be taken as Magistrates. My request is that the same principle may be extended in this case also.

Mr. N. Abdur Rahiman Sahib: Is the member aware that two members of the Bar were appointed as Police Inspectors one or two years ago ?

Mr. T. Mahomed Ismail: I am not aware of it. By this resolution I only request that the principle that members of the Bar may be taken by the Government as Prosecuting Inspectors should be adopted by Government. With these words I commend the resolution for the acceptance of the House.

Mr. M. S. Anirudhan: I second it.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. Kottur Kunjukrishna Pillai: I am really at a loss to understand the purport or the necessity of this resolution. According to the resolution, it only wants that there may not be any bar for direct recruitment from the legal profession to the post of Prosecuting Inspectors. I am not aware of any bar subsisting now for a direct recruitment from the legal profession to the grade of Prosecuting Inspectors. As such, I think that really the resolution does not make the position very clear for either the House or the Government to adopt. Sir, if it is meant as a method to improve the conduct of prosecution in criminal cases, I do not think there is very much necessity for this resolution, because as I understand most of the Prosecuting Inspectors are Graduates in Law and they are conducting the prosecutions efficiently. But if it is said that their ability to conduct the prosecution is not sufficient and if the argument of my friend is that Prosecuting Inspectors should be impartial advocates then I think that his resoultion will not make it so. For, once they are recruited to the Police Department they may become as bad or as good as the Prosecting Inspectors now in the Department. I was surprised to hear from my friend that the investigation and prosecution are done by the same officers, or some such thing. I do not think that is being done now. Therefore, if a change is thought necessary I think I will have to advocate the system of appointing for a definite period members of the bar as retainers to conduct prosecutions, as the Government Pleaders are now appointed. By that system we can understand that there may be really detachment with regard to prosecutions and the various charges brought forward by the investigating officers will be impartially scrutinised and only relevant and justifiable prosecution will be conducted and properly carried through. If that is the object, this resolution does not give any idea with regard to that. Therefore I think that as the resolution is worded it goes nowhere. It is not clear and the whole position is confused. It presupposes that there is some bar for direct recruitment from the bar which does not exist. As such, I do not find my way to give my assent to this resolution.

Mr. Kochikal P. Balakrishnan Tampi: Sir, I am in sympathy with the spirit of the resolution. I think my honourable friend Mr. Ismail has meant to say that as far as possible prosecuting Inspectors may be recuited from among the members of the Bar. Certainly, Sir, that will be very encouraging to some junior practitioners who show good promise at the Bar, but at the same time do not make much progress in it. It will also be helpful to the department in so far as it makes it possible for their cases to be conducted by people who have had some acquaintance, some

LIBRARY ARCHIVES Kerala Legislative Assembly

experience in the conduct of cases. A certain amount of detachment is required in the conduct of cases and certainly a lawyer who has been conducting cases. But at the same time I cannot see eye to eye with Mr. Kottur Kunjukrishna Pillai when he suggested that in the earlier stage of the prosecution some vakils may be retained as Prosecuting Inspectors. If I understand aright in prosecution cases there are certain things which could not be revealed to a casual vakil who is engaged. There may be departmental matters, there may be departmental secrets, there may even be State secrets which cannot be disclosed to a casual lawyer who is engaged for a case. Therefore it is absolutely necessary that Prosecuting Inspectors must be recruited and they may be as far as possible chosen from among the members of the Bar.

At the same time I want to make it very plain that there are very many experienced Prosecuting Inspectors, graduates in law, in the Department and it would seriously cause heart-burning amongst them if the claims of those members who have put in 15, 20 and 25 years of service in the Department, who are graduates in-law and who have been conducting cases efficiently, are overlooked by this method of direct recruitment from among the members of the Bar. Without prejudice to the claims of the graduates-in-law in the Department who have shown some aptitude for this kind of court work, if it could be made possible to recruit Prosecuting Inspectors from among the members of the Bar that would be an excellent way of satisfying the people. At the same time as the resolution is not well worded I would request my honourable friend Mr. Ismail not to press it to a division.

Mr. Nedumangad R. Kesavan Nair: Sir, I should like to support this resolution in the very wording in which it is styled by my friend Mr. Ismail. We have been noting for the last so many years that only a very few of the cases that have been charged by the Police end in convictions. Of all persons the Police Inspector is the least convincing man. If a case is entrusted to him I should say the art of advocacy is conspicuous in a Police Inspector by its absence.

An Inspector who has been accustomed to other people hearing his dictates might not do well in persuading a court of law. When there is no dearth of lawyers, particularly junior lawyers of the type of my friend Mr. Balakrishnan Tampi, whose mouth would profusely water at the sound of Rs. 50, when there is no dearth of such lawyers, I say that as far as possible the Prosecuting Inspectors should be recruited from among lawyers.

There is another aspect of the question which I wish to point out to the House. In the year 1110, 6729 cases were charge-sheeted by the police of which only 1425 cases ended in conviction.

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. Nedumangad R. Kesavan Nair.]

That means a little less than one-fifth. In 1111, 7816 cases were charge-sheeted by the police and only 1578 cases were convicted in spite of the apparent partiality shown by the magistracy.

President : Order, order. Honourable members will take care generally not to make sweeping observations regarding our judiciary.

Mr. Nedumangad R. Kesavan Nair : What I wanted to observe Sir, was that a sanctity is attached by the magistracy to cases which have been charge-sheeted by the police as compared with private complaints. In prosecutions there is the trouble in collecting evidence, and there is the trouble in investigating ; when all this is over the case is entrusted to a Prosecuting Inspector. And it may be due to the inefficiency of the prosecutor who happens to be only a Police Inspector that the case fails.

President : Might it not be due to the tremendous impartiality of the courts ?

Mr. Nedumangad R. Kesavan Nair : I would say that it is mainly due to the inefficiency of the Prosecuting Inspectors.

In view of the fact that there is no dearth of lawyers who would accept such situations I also move that this resolution be accepted.

Mr. James Fletcher (*Kalkulam and Vilavankod* cum *Neyyattinkara*): Sir, I support the resolution. At present the Prosecuting Inspectors are recruited from among the officers of the department who have experience as police inspectors. The resolution desires that the recruitment should not be confined to the department alone. As far as possible, a few of the Prosecuting Inspectors may be recruited from among the members of the Bar.

For one thing, the officer who selects from the department has got only a narrow field to choose from now, because, he has to select only from those who are already in the Department. The number of such men is limited. If he wants the best men he can go out of the department and choose from among the practising lawyers who are prepared to accept such work.

Mr. Kunjukrishna Pillai suggested that there is no need for recruting members of the Bar permanently as Prosecuting Inspectors. They may be engaged as retainers for a period of years.

I may also bring to the notice of Government the fact that there is much unemployment among the junior lawyers in this country. It would be an encouragement to them if, suitable, capable and clever young men from the Bar are recruited to the posts of Prosecuting Inspectors.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. P. I. Simon (*Municipal Councils*): Sir, those who are supporting this resolution are evidently expecting that the lawyers recruited as Prosecuting Inspectors would be getting their promotions in the department. I should think that a lawyer appointed as a Prosecuting Inspector will not be eligible for promotions in the department because he will have experience only as a Prosecuting Inspector and will not have any experience of other work. He cannot get promotion as an Assistant Superintendent. That will of course dissuade any lawyer worth the name from going into the grade of a Prosecuting Inspector as he will have to live and die as such. This aspect has missed the attention of those who are supporting the resolution. I therefore wish to bring it to the notice of the honourable Members.

Mr. N. Abdur Rahiman Sahib: Sir, though my honourable friend Mr. Simon sounded a note of warning against junior lawyers, aspiring for Prosecuting Inspector's posts I would submit that it is only those lawyers who want such posts in the Excise and Police Departments that are contemplated by this resolution. So I support the resolution.

The duties of a Prosecuting Inspector are analogous to that of a Public prosecutor in courts. The Station House Officer charge-sheets the case and entrusts all the records to the Prosecuting Inspectors who are solely in charge of conducting the cases. It has to be said that there is a good deal of difference between cases conducted by a mere Police Inspector who has experience only in chargesheeting, investigating and gathering evidence for cases and in presenting and arguing cases before a Criminal court by one who knows the intricacies of Criminal Law who has knowledge of the Evidence Act and the Penal Code. Very often cases are lost by bad handling by inexperienced people who do not know the legal aspects of a case who do not know how to put forth the case in the best manner possible. Very often it happens that the case charged may be true but at the same time it is lost because it is not properly handled by not presenting the case properly and not giving the best legal evidence. It is highly desirable to select as far as possible Prosecuting Inspectors from among practising Criminal lawyers *i.e.* from members of the Bar who are daily attending the criminal courts,, watching the conduct of cases and who know how to let in evidence.. It will certainly be change for the better if cases for prosecution in the Excise and Police are entrusted to such practising members of the Bar. The resolution does not say that the choice should be restricted to members of the Bar alone. The only thing implied in the resolution is that, as far as possible, graduates-in-law also may be appointed as Prosecuting Inspectors in the Police and

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. N. Abdur Rahiman Sahib.]

Excise Departments. A few years ago two men were taken from the Bar as Prosecuting Inspectors. But now I find that they are not put as Prosecuting Inspectors ; they are put as Station House Officers. I do not know the reason for that. When these appointments were made, we were inclined to think that Government had in a way accepted the principle underlying this resolution. It was with that idea that I put the question whether the honourable member is aware that two men were appointed as Prosecuting Inspectors. With these few words, I support the principle underlying the resolution.

Rajyarakshapravina R. Pitchu Aiyangar: Sir, at present there are 78 Inspectors in my department, of whom eight are Prosecuting Inspectors. Of the eight, seven are B. L's and one is B. A, and Criminal Higher. Of the 70 other Inspectors who are in charge of Stations, there are 14 B. L's. There are 29 B.A's and the rest are non-graduates. Probably the object of the resolution is to avoid the age-bar and to avoid these Prosecuting Inspectors being drilled and disciplined as any other Police Officer. There is a very great disadvantage in directly recruiting from the Bar persons who do not want to be drilled and disciplined and who do not want any experience of station work. Without experience of station work, I do not think a man can be a good Prosecuting Inspector.

Another point is that if a person is a good lawyer I do not see why he should go into the Police Department where there is so much control and supervision. At the Bar he has very much freedom. I do not know why he should sacrifice all the freedom and go into the Police Department.

If he is a skilful and able lawyer having money enough on account of his skill in the profession, I do not see why he should go into the Police Department. On the other hand, if there is want of skill in the profession, there will be the same want of skill in my department also if such a man is recruited.

There is no complaint against the work of the present B. L. Prosecuting Inspectors and no situation has arisen for recruitment from the Bar.

A member referred to failure of cases. Failure of cases happens in Sessions Courts as well even though we have pucca lawyers. The Prosecuting Inspector handles cases in the lower courts. Witnesses themselves show vagaries. There are certain temperaments among the Judges themselves and there are several other reasons for failure of cases. It cannot be better because a Prosecuting Inspector is recruited from the Bar.

LIBRARY ARCHIVES Kerala Legislative Assembly

Therefore I am of the opinion that without training in station-house work, a lawyer who is directly recruited from the Bar cannot prove to be a good prosecuting police officer.

Some difficully will be caused in regard to promotions. A person who is directly recruited from the Bar has to begin his life as Prosecuting Inspector, without experience of station work. Once he gets into the department and feels the humility that his own juniors have been promoted over him as A. S. Ps. and D. S. Ps. there will be some heartburning. This heartburning will lead to great discouragement to the officer and the consequent unsatisfactory work. Without the experienee of the station-house work, he cannot be raised to a higher place. That is one aspect of the matter to be considered.

If this principle is to be adopted to them the Prosecuting Inspectors should be placed under a separate unit. If that is done there are only 8 places to be filled up and the chances of promotion from that are very limited. They will have to be shown difference in treatment from officers who are in charge of the station-house work.

Firstly there is difficulty in the question of promotion. In the second place we have to place them in a separate cadre. Thirdly, no difference in treatment could be shown to these people. Fourthly, the successful lawyers are not likely to seek the place of Prosecuting Inspectors for the simple reason that their liberty is totally to be restrained and curtailed. What the honourable member wants by passing this resolution is that he wants to get job for the men. My position is, we want men for the job. There is this fundamental difference.

I am not against recruitment of lawyers as Prosecuting Inspectors. Before that is done, there are many conditions to be satisfied. There is the age question in the first instance. Secondly he must have the necessary fitness for which a regular training just like the station-house officers is very necessary. Without that training he cannot conduct himself properly as a Prosecuting Inspector. There are other details to be learnt in order to become a successful Prosecuting Inspector.

If an officer gets discouraged we know what sort of interest he will take in his own office. He may even begin to feel the pinch of humiliation when his juniors are promoted over him. These points should be considered by the honourable members.

There are many B. Ls. in the Police Department doing the work of Police Inspectors and whenever vacancies arise they are preferred to graduates in arts. There is no dearth of law graduates in my department. Even now they are recruited to the department.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. K. R. Elankath: Is there any harm in fixing a proportion to the entertainment of law graduates as Inspectors in the department?

Rajyarakshapravina R. Pitchu Aiyangar: There is already a proportion of 3 : 1. For every 3 direct recruitment, there is one promotion from the department. That proportion is already too much and it cannot be improved. If that is changed it will work detrimentally to the interest of the department so as to affect the very efficiency of the force. An addition to the department should be such as to serve all the interests of the department.

Mr. T. Mahomed Ismail: May I know whether there was any direct recruitment as Prosecuting Inspector?

Rajyarakshapravina R. Pitchu Aiyangar: No.

Mr. T. Mahomed Ismail: Sir, I shall answer the objections that have been raised on the floor of the House in regard to the recruitment of Prosecuting Inspectors? The honourable member Mr. Kottur Kunjukrishna Pillai stated that there is no rule against such appointments. I admit that there is no clear rule prohibiting the members of the Bar to be recruited as Prosecuting Inspectors. But the practice is that they were not generally taken. Even the Commissioner himself has admitted that there has been no direct recruitment to these offices. Anyway, from the very beginning a convention has grown up that lawyers have not been taken from the Bar directly as Prosecuting Inspectors. The honourable member Mr. Kunjukrishna Pillai has raised some doubts and stated that there is no difference between investigation and prosecution. I stated that investigating officers are quite different from Prosecuting Inspectors. As a lawyer the honourable member ought to know that prosecution begins when the investigation ends. Again I am not imputing any impartiality to the Prosecuting Inspectors. That is never my intention also. What I said was that the duty of an ordinary Inspector is different from that of a Prosecuting Inspector. The duty of the former is to find out the offenders, detect crimes, making investigation in murder cases and such similar offences. It is not possible for him to be quite unbiased, when he handles the case as Prosecuting Inspector. What is expected of a Prosecuting Inspector is to keep an unbiased mind and not to see the that accused is convicted at any cost. If the Prosecuting Inspectors appear before Courts with a preconceived idea that the accused must be convicted it is that spirit which must be done away with. Generally, that kind of spirit cannot be taken away from him because he cannot but identify himself with station-house officers.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. K. R. Elankath: Is it a fact that once an officer is appointed as a Prosecuting Inspector he looks into the interests of the department and Government and forgets the public interests?

Mr. T. Mahomed Ismail: It is not possible for a Prosecuting Inspector to dissociate himself with the mentality of a station-house officer.

President: The member's idea is that once a man was recruited as a Prosecuting Inspector he must be like an Advocate-General.

Mr. T. Mahomed Ismail: Yes Sir, as unbiased as Sircar Vakils. It is not possible for Prosecuting Inspectors taken from the General Inspectorate, to keep themselves from this bias. That is why I said that the Prosecuting Inspectors may be recruited from the Bar. They are wellversed with the legal profession. It is not my intention to impute any partiality to the existing Prosecuting Inspectors.

Mr. Balakrishnan Tampi stated that if members are to be taken from the Bar, the existing officers will have to be thrown out. I shall be the last man to say that the existing men should be thrown out and new men recruited from the Bar to fill up those places. My request is that, in future, when vacancies arises, as far possible, members of the legal profession who are wellversed in law, who are able to conduct cases in a dispassionate manner and, who have acquired a wider experience of men and things than the ordinary Inspectors, should be recruited in the interests of the public at large.

Then the Commissioner stated that once the Prosecuting Inspectors are recruited from the Bar they may have to remain as subordinate officers in the Police Department. He, of course, zealously guards the interests of his subordinates.

Rajyarakshapravina R. Pitchu Aiyangar: On a point of explanation. I am not at all in the way of lawyers getting into the Police Department. I stated that lawyers should get exemption from regular training. If that training is absent in a lawyer, it will be a drawback for him to function properly as a Prosecuting Inspector. I am perfectly agreeable for the lawyers being recruited directly, as Prosecuting Inspectors, provided, they satisfy certain conditions for the discharge of work in a proper manner.

Mr. T. Mahomed Ismail: I thank the Commissioner for his frank opinion and accepting the principle of my resolution. But there is one thing. He has stated very much about the fact of undergoing training of a station-house officer as a preliminary step to function as Prosecuting Inspector. When once a person enters into

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. T. Mahomed Ismail.]

the Police Department as an Inspector and undergoes training he will have to identify himself with the regular police. It is impossible for him not to associate himself with a station-house officer. It is this training I object to. I have already stated that this training is not conducive to the administration of criminal cases. For this very reason it is that I wanted that persons should be taken from outside police experience.

As regards promotion it is not peculiar to the Police Department alone. People who enter the department have to abide by certain rules. There are certain rules laid down in the department and every member has to satisfy those provisions. If all those provisions are satisfied, the person concerned will be given promotion. Therefore, what I want by this resolution is that the Government may accept the principle of it so that the fact that some people belong to the legal profession may not be a bar to enter into this department.

The resolution was put to vote and lost.

Mr. T. Mahomed Ismail: Sir, I demand a poll.

A poll was taken with the following result:

AYES—12.

1. Mr. N. Abdur Rahiman Sahib
2. ,, M. S. Anirudhan
3. ,, N. V. Chacko
4. ,, K. R. Elankath
5. ,, P. R. Godavarma Raja
6. ,, James Fletcher
7. Mr. Nedumangad R. Kesavan Nair
8. ,, T. K. Kittan
9. ,, K. M. Korah
10. ,, K. K. Kuruvilla
11. ,, T. Mahomed Ismail
12. ,, R. V. Thomas

NOES—17.

1. Mr. M. K. Ananthasiva Aiyar
2. ,, V. S. Arumukham Pillai
3. ,, Eric Hall
4. Mrs. Abraham Gnanasikhamony
5. Mr. Kottur Kunjukrishna Pillai
6. ,, Kallur Narayana Pillai
7. ,, P. I. Simon
8. ,, Rao Bahádur Rajyasevanirata Dr. N. Kunjan Pillai
9. Mr. C. O. Madhavan
10. ,, R. Dhanukoti Pillai
11. Rao Bahadur A. Rengasvami Aiyar
12. Mr. G. B. E. Truscott.
13. ,, Kayalam Parameswaran Pillai
14. ,, C. V. Chandrasekharan
15. ,, C. Kumara Das
16. Rajyarakshapravina R. Pitchu Aiyangar
17. Mr. James Simpson

LIBRARY ARCHIVES Kerala Legislative Assembly

NEUTRALS- 5.

1.	Mr. Kochikal P. Balakrishnan Tampi	4.	Mr. Abdul Tayeb Shaikh Kháder Bhay
2.	„ A. Eswara Pillai	5.	„ G. Narayana Aiyar
3.	„ M. Govindan.		

The resolution was declared lost, 12 voting *for* the resolution 17 *against* and 5 remaining *neutral*.

REPEAL OF THE NEWSPAPERS REGULATION.

Mr. K. R. Elankath: Sir, I beg to move the following resolution :

"This Council recommends to the Government that the Travancore Newspapers Regulation be repealed."

This is a resolution which in point of importance can claim first rate prominence in a representative legislative body of any State. Both in principle and in point of practical utility, I do not see such a penal regulation, very vaguely worded as it is, should be retained in the statute book of this enlightened State to fetter the freedom of expressing public opinion. So far as the penal clauses in the Regulation are concerned I find that there are clauses tantamount to it in the Travancore Penal Code, except in one particular. That is with regard to the dissemination of false news by the press.

One of the most important clauses *viz.* clause 5 deal with promoting of hatred, contempt or disaffection against the Government of His Highness the Maharaja. Of course it is the desire of this House as any other House to prevent the spreading of false news as well as seditious statements. There is Section 117 in the Penal Code to deal with persons who promote hatred, contempt or disaffection against the Government. Why should a new clause be introduced into this with this difference, namely, that the executive is authorised to use its own powers without the matter being taken to a civil court and withdraw license issued to a newspaper or forfeiture of deposit.

As regards the creation of enmity between the various sections of the communities in the State there is a clause in the Penal Code, *viz.* Section 145 according to which action may be taken against the offender. As long as there are proper and requisite provisions in the Penal Code for dealing with cases of creating disaffection against Government as well as promoting enmity between communities, I do not see any necessity for a regulation containing practically few new provisions. It is unwarranted and superfluous. The Regulation of

LIBRARY ARCHIVES Kerala Legislative Assembly